IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 554 of 2004

in

SPECIAL CIVIL APPLICATIONNo 15634 of 2003

with

CIVIL APPLICATION NO. 524 OF 2004

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SHAILESHKUMAR M PATEL

Versus

STATE OF GUJARAT

Appearance:

1. LETTERS PATENT APPEAL No. 554 of 2004

MR IS SUPEHIA for Appellant No.

Ms.D.S.Pandit, learned A.G.P. for Respondent No. 1-4

RULE SERVED for Respondent No. 1-4

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

Date of decision: 12/01/2005

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

#. The appellant's father died way back on 15.11.1975 while in service. At that time, the appellant was hardly one year old. Admittedly, his widow mother did not apply for appointment on compassionate ground. It is only after he attained the majority in 1992, his widow mother applied seeking appointment of his son - appellant on compassionate ground. The prayer was rejected way back on 20.11.1998. Thereafter, the appellant preferred to make representations and in the end of 2003, after a period of five years, he approached this court by way of special civil application no. 15634 of 2003 seeking appointment on compassionate ground. On the ground of gross delay and laches, the learned single Judge of this court refused to exercise his discretionary jurisdiction in favour of the appellant - petitioner and accordingly dismissed his writ petition by his order dated 07.11.2003 which is challenged in this appeal.

#. Law on this point is very well settled by catena of decisions of the Hon'ble Supreme Court. Compassionate appointment is to be made only when the deceased died in hardness. It is for providing immediate relief to the dependents of the deceased but such a belated claim cannot be entertained after almost 28 years of death of father of the appellant. That apart, one cannot ask for compassionate appointment by way of a right as a matter of fact.

#. In view of the above, when the learned single Judge of this court refused to exercise his discretionary jurisdiction in favour of the appellant, then certainly this court cannot interfere with such order in its letters patent jurisdiction. Hence, dismissed.

#. Civil application is dismissed as main appeal is dismissed.

(B.J.SHETHNA, J)

(SHARAD D DAVE, J)
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